



## LUMMI INDIAN BUSINESS COUNCIL

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### RESOLUTION #2009-094 OF THE LUMMI INDIAN BUSINESS COUNCIL

**TITLE:** Approval of Acquisition and Use Plan for Reservation Lands in the Flood Plain for the Purposes of Establishing the Lummi Nation Wetland and Habitat Mitigation Bank and Implementing Habitat Restoration Projects

**WHEREAS**, the Lummi Indian Business Council (LIBC) is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-laws of the Lummi Tribe of the Lummi Reservation, Washington; and

**WHEREAS**, the LIBC is responsible for the protection, restoration, enhancement, and management of the natural resources within the exterior boundaries of the Lummi Reservation and throughout the Usual and Accustomed Fishing Grounds and Stations; and

**WHEREAS**, estuaries are critical salmon habitat as they provide a protected and food-rich environment for juvenile salmon growth and allow a transition for both juvenile and adults between the fresh and salt water environments; and

**WHEREAS**, reestablishing and rehabilitating salt marsh habitat in the estuary is desirable because salt marshes are among the most productive ecosystems in the world and will improve both salmon and shellfish habitat including improving water quality critical to shellfish harvest; and

**WHEREAS**, reestablishing and rehabilitating fresh-water marsh/wetland habitats in the estuary is desirable because these habitats provide numerous ecosystem functions including: flood water storage; providing habitat for invertebrates, amphibians, salmonids, birds, and native plants; and will improve water quality critical to shellfish harvest; and

**WHEREAS**, dike and levee construction activities starting in the 1920s, which were accompanied by agricultural ditching to drain fields and wetlands, have resulted in a reduction of wetland/estuary areas in the lower Lummi River; and

**WHEREAS**, chinook salmon, steelhead, and bull trout in the Nooksack River basin have been listed as "Threatened" under the United States Endangered Species Act; and

**WHEREAS**, restoring wetland and estuary habitats is believed to be a critical step in the recovery of the salmonid stocks in the Nooksack River basin; and

**WHEREAS**, the LIBC adopted Resolution No. 98-062 to authorize the Lummi Natural Resources Department to evaluate the Nooksack Estuary Recovery Project, which is intended to improve habitat for Nooksack River salmon stocks by increasing the size of

the Lummi River and Nooksack River wetlands and estuaries and to re-establish the Lummi River channel as a salmon migration corridor; and

**WHEREAS**, the Lummi Code of Laws Title 17 and applicable federal laws require that impacts to wetlands and their buffers be avoided and minimized as practicable and that any unavoidable impacts are mitigated to achieve the goal of no net loss of wetland functions, values, or acreage; and

**WHEREAS**, wetland mitigation banks have been evaluated by the Lummi Natural Resources Department and determined to be a useful tool to effectively and efficiently provide compensatory mitigation for unavoidable impacts to wetlands and related habitat occurring on the Lummi Indian Reservation (Reservation) and in adjacent watersheds; and

**WHEREAS**, the Lummi Natural Resources Department has been working with federal and state agencies to establish a Lummi Nation Wetland and Habitat Mitigation Bank within the flood plains of the Lummi and Nooksack rivers; and

**WHEREAS**, the Lummi Indian Business Council must own the land used to establish a Lummi Nation Wetland and Habitat Mitigation Bank within the flood plains of the Lummi and Nooksack rivers and designate and protect this land into perpetuity to be used for the purposes of a wetland and habitat mitigation bank; and

**WHEREAS**, land acquired by the Lummi Indian Business Council for a Lummi Nation Wetland and Habitat Mitigation Bank or for restoration projects must be protected into perpetuity through a legal mechanism such as a conservation easement that preserves, restores, and protects the ecological values; ecological process; and salmon and wildlife habitats of the property; and

**WHEREAS**, a conservation easement that protects land into perpetuity for the Lummi Nation Wetland and Habitat Mitigation Bank or for restoration projects must not infringe on the Treaty rights of enrolled members of the Lummi Nation and must allow tribal members to conduct traditional uses such as hunting, gathering, and religious activities that do not adversely affect the purposes of a conservation easement; and

**WHEREAS**, the Lummi Indian Business Council currently owns as Tribal Trust lands approximately 1,117 acres (62 percent) of the approximately 1,805 acres of land identified by the Lummi Natural Resources Department within the flood plains of the Lummi and Nooksack rivers for the Lummi Nation Wetland and Habitat Mitigation Bank and needs to acquire the remaining approximately 688 acres within the flood plains; and

**WHEREAS**, some parcels of land located within the flood plains of the Lummi and Nooksack rivers are owned by tribal members or are in fee status and no longer generate significant agricultural revenues for various reasons, yet the parcels cannot be easily developed for other uses because they are located in the flood plain, have wetlands, and zoning makes them impractical to develop; and

**WHEREAS**, purchase of these parcels by the Lummi Indian Business Council at fair market value will provide income to the land owners, consolidate ownership, and provide opportunities to preserve and restore the salmon and other habitat potential of these parcels; and

**WHEREAS**, the Lummi Natural Resources Department has been working with federal and state agencies to acquire land within the flood plains of the Lummi and Nooksack rivers to implement restoration projects; and

**WHEREAS**, the Lummi Natural Resources Departments efforts to establish a Wetland and Habitat Mitigation Bank and to acquire land and implement restoration projects within the flood plains of the Lummi and Nooksack rivers are complementary; and

**WHEREAS**, on May 11, 2009 the Lummi Fisheries and Natural Resources Commission and on May 20, 2009 the Lummi Planning Commission have each passed a motion in support of this acquisition and use plan.

**NOW, THEREFORE, BE IT RESOLVED**, that the Lummi Indian Business Council hereby approves the acquisition and use plan within the area shown in Attachment 1 for approximately 2,649 acres of Reservation lands in the flood plain for the purposes of establishing the Lummi Nation Wetland and Habitat Mitigation Bank and implementing habitat restoration projects; and

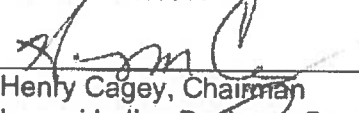
**BE IT FURTHER RESOLVED**, the acquisition and use plan for Reservation lands shown in Attachment 1 shall be effective as of the adoption of this Resolution; and

**BE IT FURTHER RESOLVED**, that the Lummi Natural Resources Department is directed to implement the habitat restoration and enhancement treatments needed to optimize the environmental and mitigation potential of the designated areas, and

**BE IT FURTHER RESOLVED**, that the Lummi Natural Resources Department and the Lummi Planning Department are directed to develop a mechanism to administer the Lummi Nation Wetland and Habitat Mitigation Bank including the allocation of credits generated by the mitigation bank for Lummi Indian Business Council approval, and

**BE IT FURTHER RESOLVED**, that the Chairman (or Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

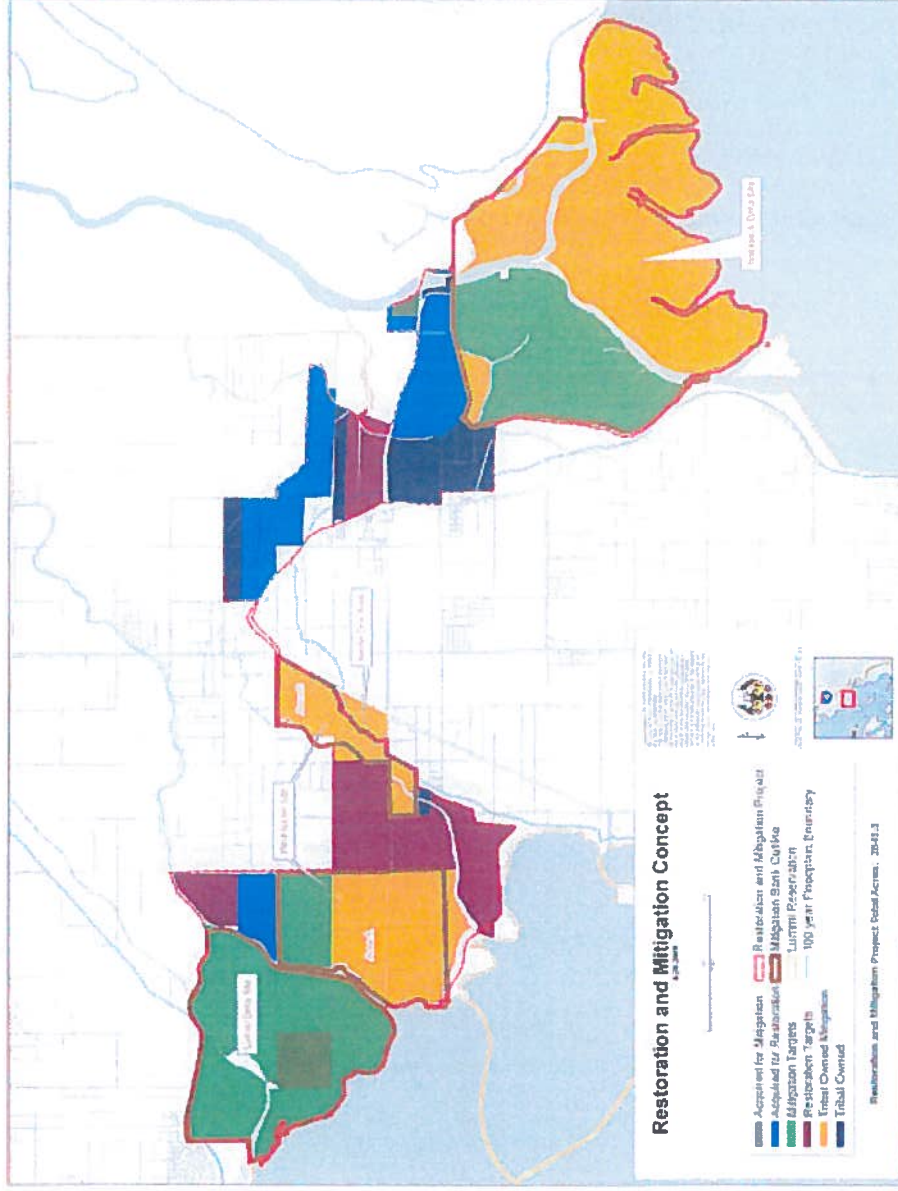
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Henry Cagey, Chairman  
Lummi Indian Business Council

#### CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2009-094 was adopted at a Regular Meeting of the Council held on the 2nd of June 2009, at which time a quorum of 9 was present by a vote of 8 For, 0 Against, and 0 Abstentions(s).

  
James Wilson, Secretary  
Lummi Indian Business Council



Attachment 1. Acquisition and Use Plan for Reservation Lands in the Flood Plain for the Purposes of Establishing the Lummi Nation Wetland and Habitat Mitigation Bank and Implementing Habitat Restoration Projects